

1 EDMUND G. BROWN, JR., Attorney General  
Of the State of California

2 MARY HACKENBRACHT  
Senior Assistant Attorney General

3 MARILYN H. LEVIN, SBN 92800  
Deputy Attorney General  
4 300 S. Spring Street-Suite 11000-N  
5 Los Angeles, CA 90013-1204  
Telephone: (213) 897-2612  
6 Facsimile: (213) 897-2802

7 Attorneys for Plaintiff People of the State of California, ex  
8 rel. California Regional Water Quality Control Board, Los Angeles  
9 Region

10 **SUPERIOR COURT OF CALIFORNIA**

11 **COUNTY OF VENTURA**

12  
13 PEOPLE OF THE STATE OF CALIFORNIA,  
14 ex rel. CALIFORNIA REGIONAL WATER  
QUALITY CONTROL BOARD, LOS ANGELES  
REGION,

15 Plaintiff.

16 v.

17  
18 CITY OF SANTA PAULA, SANTA PAULA  
WASTEWATER RECLAMATION FACILITY,

19 Defendant.  
20  
21  
22

Civil No.:

**COMPLAINT**

23  
24 PLAINTIFF, People of the State of California, ex rel.  
25 California Regional Water Quality Control Board, Los Angeles  
26 Region, through the undersigned counsel, hereby alleges as  
27 follows:

NATURE OF ACTION

1. This is a civil action brought by the People of the State of California, ex rel. California Regional Water Quality Control Board, Los Angeles Region ("Regional Board") against the City of Santa Paula ("Santa Paula") for wastewater discharges from its Santa Paula Wastewater Reclamation Facility ("SPWRF") pursuant to the provisions of the Porter-Cologne Water Quality Control Act (Cal. Wat. Code, §§ 13000-14958). This action seeks assessment of civil liability pursuant to Water Code section 13385 and injunctive relief pursuant to Water Code section 13386 for violations of Water Code section 13376, section 301 of the Federal Water Pollution Control Act (the "Clean Water Act;" 33 U.S.C. § 1251 et seq.) codified at section 1311 of title 33 of the United States Code, and Santa Paula's National Pollutant Discharge Elimination System ("NPDES") permit, Order No. 97-041, issued pursuant to Water Code section 13377 and adopted by the Regional Board on April 7, 1997.

2. Plaintiff Regional Board brings this action to enjoin violations of the Water Code, the Clean Water Act, and Santa Paula's NPDES Permit requirements, and to require Santa Paula to comply in all respects with its NPDES Permit and to require payment of appropriate civil penalties by Santa Paula. Water Code section 13385, subdivision (b), authorizes the Attorney General, upon request of a regional water quality control board, to commence an action in Superior Court to impose liability for any violation of waste discharge requirements or violation of section 301 of the Clean Water Act. Water Code section 13386 authorizes

1 the Attorney General, upon request of a regional board, to  
2 petition the appropriate court for a preliminary or permanent  
3 injunction, or both, upon any threatened or continuing violation  
4 of waste discharge requirements or violation of section 301 of  
5 the Clean Water Act. Pursuant to Water Code section 13361,  
6 subdivision (c), it is unnecessary to allege or prove at any  
7 stage of the proceeding that irreparable damage will occur should  
8 the temporary restraining order, preliminary injunction, or  
9 permanent injunction not be issued, or that the remedy at law is  
10 inadequate, and the temporary restraining order, preliminary  
11 injunction, or permanent injunction must issue without such  
12 allegations and without such proof.

#### 13 14 JURISDICTION AND VENUE

15 3. This Court has jurisdiction over the parties and the  
16 subject matter of this action pursuant to Water Code sections  
17 13385 and 13386.

18 4. Venue is proper in this County pursuant to Water Code  
19 section 13361 because the source of the discharge at the SPWRF,  
20 and all related discharges giving rise to this action occurred in  
21 this County and Santa Paula is located here.

#### 22 23 PARTIES

24 5. Plaintiff is the People of the State of California, ex  
25 rel. the California Regional Water Quality Control Board, Los  
26 Angeles Region. The Regional Board is a public agency of the  
27 State of California organized and existing pursuant to Water Code

1 section 13000 et seq. The California Legislature made the  
2 Regional Board the principal State agency responsible for the  
3 coordination and control of water quality in the Los Angeles  
4 Region (Wat. Code, § 13001). Pursuant to Water Code sections  
5 13370 and 13377, the Regional Board is authorized to implement  
6 the provisions of the Clean Water Act.

7 6. Defendant Santa Paula is a person under Water Code  
8 section 13050, subdivision (c), and has the power to sue and be  
9 sued.

#### 11 STATUTORY BACKGROUND

12 7. Section 301 of the Clean Water Act (codified at 33  
13 U.S.C. § 1311) prohibits discharges of pollutants except in  
14 accordance with that section and, *inter alia*, section 402 of the  
15 Clean Water Act (codified at 33 U.S.C. § 1342).

16 8. Section 502(6) of the Clean Water Act (codified at 33  
17 U.S.C. § 1362(6)) defines "pollutant" broadly to cover a wide  
18 range of materials and specifically includes "solid waste,"  
19 "sewage," and "garbage."

20 9. Section 502(12) of the Clean Water Act (codified at 33  
21 U.S.C. § 1362(12)) defines "discharge of a pollutant" to mean,  
22 *inter alia*, the addition of any pollutant to "navigable waters  
23 from any point source."

24 10. Section 502(7) of the Clean Water Act (codified at 33  
25 U.S.C. § 1362(7)) defines "navigable waters" to mean "the waters  
26 of the United States, including the territorial seas."

11. Section 502(14) of the Clean Water Act (codified at 33 U.S.C. § 1362(14)) defines "point source" to mean, *inter alia*, "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, [or] discrete fissure . . . from which pollutants are or may be discharged."

12. Section 402 of the Clean Water Act (codified at 33 U.S.C. § 1342) establishes the NPDES program under which authorized states may issue permits governing the discharge of pollutants from regulated sources. California, through its several Regional Water Quality Control Boards, has in place an EPA-approved NPDES program.

13. Section 403.3 of Title 40, Code of Federal Regulations defines a "publicly-owned treatment works" ("POTW") as a treatment works owned by a state or municipality, including any facilities that store, treat, recycle, or reclaim municipal sewage or liquid industrial wastes. It also includes sewers, pipes, and other conveyances if used to convey waste water to a POTW.

14. The Clean Water Act regulates POTWs under, *inter alia*, the regulations at Part 122 of Title 40, Code of Federal Regulations, which implement the NPDES permit program.

15. Water Code section 13376 prohibits the discharge of pollutants or the operation of a POTW by any person except as authorized by waste discharge requirements.

16. Pursuant to Water Code section 13374, "waste discharge requirements" are a State equivalent to NPDES permits. Pursuant

1 to Water Code section 13373, the terms "navigable waters,"  
2 "pollutants," and "discharge" in state programs have the same  
3 meanings as implemented in the Clean Water Act. Pursuant to  
4 Water Code section 13377, the Regional Board must issue waste  
5 discharge requirements which ensure compliance with the Clean  
6 Water Act "together with any more stringent effluent standards or  
7 limitations necessary to implement water quality control plans,  
8 or for the protection of beneficial uses, or to prevent  
9 nuisance." A "person" is defined by Water Code section 13050,  
10 subdivision (c), to include a city. Water Code section 13372  
11 provides that Chapter 5.5 of the Water Code be construed "to  
12 ensure consistency with the requirements for state programs  
13 implementing the Federal Water Pollution Control Act and acts  
14 amendatory thereof and supplementary thereto."

15 17. Water Code section 13385 imposes civil liability upon  
16 any person who violates any waste discharge requirements or  
17 Section 301 of the Clean Water Act. Pursuant to Water Code  
18 section 13385, subdivision (b), civil liability may be imposed by  
19 the Superior Court. Pursuant to Water Code section 13385,  
20 subdivision (e), the Superior Court, in determining the amount of  
21 any liability imposed under this section, "shall take into  
22 account the nature, circumstances, extent, and gravity of the  
23 violation or violations, whether the discharge is susceptible to  
24 cleanup or abatement, the degree of toxicity of the discharge,  
25 and with respect to the violator, the ability to pay, the effect  
26 of the ability to continue its business, any voluntary cleanup  
27 efforts undertaken, any prior history of violations, the degree

1 of culpability, economic benefit or savings, if any, resulting  
2 from the violation and other matters that justice may require."

3 18. Under Water Code section 13361, the Attorney General is  
4 authorized to bring a civil action at the request of the Regional  
5 Board to enforce the provisions of the Porter-Cologne Water  
6 Quality Control Act.

7 19. Water Code section 13385, subdivision (m), provides  
8 that, upon request of the Regional Board, the Attorney General  
9 must petition the appropriate court to collect any liability or  
10 penalty imposed as appropriate under that section, including  
11 violations of Water Code section 13376, violations of any waste  
12 discharge requirements, and violations of any requirements of  
13 Section 301 of the Clean Water Act.

14 20. Pursuant to Water Code section 13386, the Attorney  
15 General, upon request of the Regional Board, is authorized to  
16 petition the appropriate court for an injunction restraining any  
17 threatened or continuing violation of any of the requirements  
18 listed in paragraphs (1) through (6) of Water Code section 13385,  
19 subdivision (a), including violations of waste discharge  
20 requirements.

21  
22 GENERAL ALLEGATIONS

23 21. Paragraphs 1-20, inclusive, are incorporated by  
24 reference as if fully set forth herein.

25 22. This complaint asserts a cause of action under the  
26 Porter-Cologne Water Quality Control Act arising from the  
27 discharge of waste in violation of the NPDES Permit issued to the

1 City of Santa Paula. Santa Paula owns and operates a wastewater  
2 collection, conveyance, treatment, and disposal system, located  
3 at 905 Corporation Street, in the City of Santa Paula. The SPWRF  
4 is a POTW within the meaning of Part 122 and section 403.3 of  
5 Title 40, Code of Federal Regulations, has a design capacity of  
6 2.55 million gallons per day (mgd), and serves an approximate  
7 population of 29,000 people. The SPWRF is an advanced secondary  
8 wastewater treatment plant built in 1939 and discharges advanced  
9 secondary treated municipal wastewater to a concrete bottomed  
10 ditch parallel to the lined Peck Road storm drain. The discharge  
11 then flows into a natural unlined channel and enters Reach 3 of  
12 the Santa Clara River, a navigable water of the United States and  
13 the State, located just west of Peck Road, above the estuary.

14 23. The Regional Board issued a NPDES Permit, Order No. 97-  
15 041, containing waste discharge requirements to Santa Paula in  
16 1997. Santa Paula filed a Report of Waste Discharge and applied  
17 to the Regional Board for reissuance of waste discharge  
18 requirements for the SPWRF on October 8, 2001. In a letter dated  
19 November 26, 2002, Santa Paula's NPDES permit was  
20 administratively extended pursuant to section 122.6 of Title 40,  
21 Code of Federal Regulations and section 2235.4 of Title 23,  
22 California Code of Regulations.

23 24. The Executive Officer of the Regional Board issued Time  
24 Schedule Order ("TSO") No. R4-2003-0161 on December 15, 2003 for  
25 the SPWRF that provided interim limits and requirements for the  
26 discharge from the SPWRF that cannot achieve full compliance with  
27 final effluent limits contained in the NPDES permit. The



1 Executive Officer issued a second TSO, Order No. R4-2004-0149, to  
2 Santa Paula on October 13, 2004 with an expiration date of April  
3 1, 2005. On April 5, 2005, the Executive Officer issued a third  
4 TSO, Order No. R4-2005-0019, with an expiration date of October  
5 6, 2005. On October 7, 2005, the Executive Officer issued an  
6 Amended TSO, Order No. R4-2005-0064, extending the expiration  
7 date of TSO No. R4-2005-0019 to October 6, 2006, with all other  
8 provisions and requirements of TSO Nos. R4-2004-1049 and R4-2005-  
9 0019 remaining in full force and effect. On October 6, 2006, the  
10 Amended TSO was administratively extended one year and reissued  
11 by the Executive Officer through Order No. R4-2006-0090, which  
12 will expire on October 6, 2007.

13  
14 FIRST CAUSE OF ACTION

15 [Violation of NPDES Permit and Water Code Section 13376 Pursuant  
16 to Water Code Section 13385]

17 25. Paragraphs 1-24, inclusive, are incorporated by  
18 reference as if fully set forth herein.

19 26. Due to the SPWRF's physical configuration and capacity  
20 limitations, Santa Paula cannot consistently meet the  
21 requirements of the Clean Water Act, the Water Code, and the  
22 limits prescribed in its NPDES Permit and associated TSOs for  
23 biochemical oxygen demand (BOD), total suspended solids (TSS),  
24 turbidity, coliform, residual chlorine, and occasionally sulfate,  
25 nitrate plus nitrite as nitrogen, E. coli, and fecal coliform. In  
26 addition, the wastewater at its facility is susceptible of  
27 generating acute toxicity and other pollutants which can degrade

1 water quality and impact beneficial uses of water and which are  
2 defined as wastes under the Water Code. Between 2000 and 2004,  
3 Santa Paula violated the effluent limits for these parameters set  
4 forth in its NPDES Permit. Between 2004 and 2007, Santa Paula  
5 violated the effluent limits for these parameters set forth in  
6 its NPDES Permit and associated TSOs.

7 27. Pursuant to Water Code section 13385, subdivision (a),  
8 Santa Paula has violated the waste discharge requirements  
9 prescribed in its NPDES Permit and in its TSOs and is in  
10 violation of Water Code section 13376. Any discharge containing  
11 pollutants violating the effluent limitations set forth in waste  
12 discharge requirements is prohibited by Water Code section 13376.

13 28. Among the provisions in Santa Paula's waste discharge  
14 requirements are the requirements to implement a discharge  
15 monitoring program and to prepare and submit monthly NPDES self-  
16 monitoring reports to the Regional Board. During the period of  
17 January 1, 2000 through March 31, 2007, Santa Paula has reported  
18 2,821 violations of its NPDES Permit, Order No. 97-041, and 68  
19 violations of its TSOs. These violations include effluent limit  
20 exceedances for BOD, TSS, turbidity, coliform, residual chlorine,  
21 sulfate, nitrate plus nitrite as nitrogen, E. coli, and fecal  
22 coliform. Pursuant to Water Code section 13385, subdivision (h),  
23 Santa Paula must be assessed a minimum penalty of \$3,000 for each  
24 serious violation. Pursuant to Water Code section 13385,  
25 subdivision (b), civil liability may be imposed by the superior  
26 court in an amount not to exceed the sum of \$25,000 for each day  
27 in which the violation occurs. The Attorney General, upon request

1 of a regional board, shall petition the superior court to impose  
2 the liability. Pursuant to Water Code section 13385, subdivision  
3 (1), a portion of the penalty may be expended on a Supplemental  
4 Environmental Project.

5       29. Santa Paula has been making modifications to the SPWRF  
6 treatment process to achieve higher removal efficiency for BOD,  
7 TSS, turbidity, and coliform and to prevent exceedances of its  
8 NPDES Permit, its TSOs, and any subsequent permits for those  
9 constituents and nitrate plus nitrite as nitrogen. In 2000, the  
10 environmental engineering firm hired by Santa Paula proposed  
11 several alternatives for compliance with permit limits, including  
12 plant upgrades and building a new plant. To ensure normal  
13 operations of the existing SPWRF and to improve the effluent  
14 quality, Santa Paula completed upgrades and maintenance projects  
15 on its existing plant in June 2005. These projects included  
16 rebuilding and replacing pumps (such as sludge pumps, influent  
17 pump, recirculation pump, digester heat/mixer pump, and filter  
18 feed pump), the addition of a new chlorination and dechlorination  
19 controlling system, and maintenance of sand filters. Even with  
20 these improvements to the SPWRF, Santa Paula cannot consistently  
21 meet its discharge limits.

22       30. Santa Paula informed the Regional Board in April 2004  
23 that Santa Paula was no longer planning to build a new regional  
24 wastewater treatment plant jointly with the City of Fillmore, but  
25 instead will construct a new wastewater recycling facility  
26 serving the citizens of Santa Paula only. Santa Paula plans to  
27 complete construction of the new water recycling facility by

1 September 15, 2010 and achieve full compliance with the Waste  
2 Discharge Requirements Permit adopted by the Regional Board on  
3 May 3, 2007 for the new wastewater recycling facility, Order No.  
4 R4-2007-0028, by December 15, 2010.

5 31. Santa Paula ended its contract with Operations  
6 Management International, Inc. on August 1, 2004 for the  
7 operation of the SPWRF and ECO Resources, Inc. began to operate  
8 the SPWRF under contract with Santa Paula on August 1, 2004.

9 32. Santa Paula's discharge of wastewater containing sewage  
10 from the SPWRF into the waters of the Santa Clara River  
11 constitutes the discharge of a pollutant to navigable waters from  
12 a point source within the meaning of the Clean Water Act, Santa  
13 Paula's NPDES Permit, TSOs, and the Water Code.

14 33. Pursuant to Water Code section 13385, Santa Paula is  
15 liable for civil penalties of up to \$25,000 for each day of  
16 violation.

17 34. Unless enjoined by an order of the Court, Santa Paula  
18 will continue to violate the Clean Water Act, Santa Paula's NPDES  
19 Permit, TSOs, and the Water Code, including Water Code section  
20 13376.

21  
22 PRAYER FOR RELIEF

23 WHEREFORE, the Regional Board respectfully requests that the  
24 Court:

25 1. Assess civil penalties against Santa Paula in an  
26 amount up to \$25,000 per day pursuant to Water Code section 13385  
27 for each violation;

1           2.     Permanently enjoin Santa Paula from operating its  
2 SPWRF in violation of the Clean Water Act, the Water Code, Santa  
3 Paula's NPDES Permit, Santa Paula's TSOs, and pursuant to Water  
4 Code section 13386 to take all measures necessary to achieve  
5 compliance with the Clean Water Act, Santa Paula's NPDES Permit,  
6 Santa Paula's TSOs, and the Water Code;

7           3.     Award the Regional Board and the Attorney  
8 General's Office their costs and attorneys fees pursuant to  
9 California Code of Civil Procedure section 1021.8 for bringing  
10 this action, and

11           4.     Grant such further relief as may be appropriate.  
12  
13

14 Dated: July 20th, 2007  
15

16 EDMUND G. BROWN, JR., Attorney General  
17 of the State of California  
18 MARY HACKENBRACHT  
19 Senior Assistant Attorney General  
20 MARILYN H. LEVIN  
21 Deputy Attorney General

22 By: Marilyn H. Levin  
23 Marilyn H. Levin  
24 Deputy Attorney General

25 Attorneys for Plaintiff People of  
26 the State of California, ex rel.  
27 California Regional Water Quality  
28 Control Board, Los Angeles Region